

Notice of Allowability

Application No.

09/714,340

Examiner

Stephen F. Gerrity

Applicant(s)

WEAVER ET AL.

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed 8 February 2005.
2. ☒ The allowed claim(s) is/are 24-39.
3. ☒ The drawings filed on 16 November 2000 and 21 April 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance.

Regarding claim 24 and its dependent claims, the combination of steps set forth in the claim is not anticipated or deemed to be obvious in view of the prior art. In particular, the prior art does not teach or suggest the step of "adjusting a transverse distance between each jaw pair of said plurality of jaw pairs around a circumference of the drum while maintaining said pitch length between circumferentially adjacent jaw pairs" (emphasis added). This critical step allows the method to be performed in which containers of first and second diameters are respectively packaged using different first and second carriers in a carrier applying machine including a drum with a plurality of jaw pairs, with each jaw pair spaced at a pitch length from a circumferentially adjacent jaw pair -- that is, a single machine can be adjusted to accommodate different carriers without having to change the pitch length of the adjacent jaw pairs.

Regarding claim 31 and its dependent claims, the combination of steps set forth in the claim is not anticipated or deemed to be obvious in view of the prior art. In particular, the prior art does not teach or suggest the step of "adjusting a transverse distance between each jaw pair of said plurality of jaw pairs around a circumference of the drum while maintaining said first length" (emphasis added). This critical step allows the method to be performed in which containers of first and second diameters are respectively packaged using different first and second carriers in a carrier applying machine including a drum with a plurality of jaw pairs, with each jaw pair spaced at a first length from a circumferentially adjacent jaw pair -- that is, a single machine can be

adjusted to accommodate different carriers without having to change the length between the adjacent jaw pairs.

Regarding claim 38 and its dependent claim, the combination of steps set forth in the claim is not anticipated or deemed to be obvious in view of the prior art. In particular, the step of "adjusting said applying machine to accommodate a second carrier having a same pitch length as said first carrier" is not taught or suggested by the prior art. This critical step allows the method to be performed in which containers having a first and second diameter are respectively packaged using the necessarily different first and second carriers in a carrier applying machine in which the pitch length of the necessarily different first and second carriers is the same.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. The declaration of Mr. William Weaver under 37 CFR 1.132 filed 8 February 2005 is sufficient to overcome the various rejections of claims 24-39 based upon Cervantes et al. (**US 6,170,225**), Krogman et al. (**US 5,383,321**), Odum et al. (**US 6,055,791**), and Fisher (**US 3,044,230**) set forth in the Office action mailed 27 May 2004.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed on the attached form (PTO-892) are cited

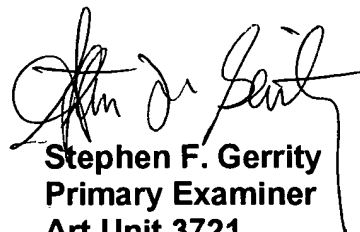
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to show carriers and their application. All are cited as being of interest and to show the state of the prior art.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Gerrity whose telephone number is (571) 272-4460. The examiner can normally be reached on Monday - Friday from 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen F. Gerrity
Primary Examiner
Art Unit 3721

12 June 2005